

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAVID EISENBACH, GEORGE H. :  
EISENBACH, JOANNE EISENBACH, :  
JENNIFER YOUNG, DANA CARINI, :  
ROSMARIE ORSHAKOSKI, MICHAEL :  
ORSHAKOSKI, JONATHAN D. CHAMPLIN, :  
ANNE CHAMPLIN, RAYMOND H. ;  
CHAMPLIN, KENNETH LEVINE, :  
CATHERINE POLERA, JULIEN DAVIES, :  
HOPE ROGERS, PHIL WEISS, CYNTHIA :  
KING, JO MANGO, and LAURALEE :  
HOLMBO :

Plaintiffs, :

v. :

**ORDER**

20 CV 8566 (VB)

VILLAGE OF NELSONVILLE; VILLAGE OF :  
NELSONVILLE ZONING BOARD OF :  
APPEALS; VILLAGE OF NELSONVILLE :  
PLANNING BOARD; WILIAM BUJARSKI, :  
as Building Inspector of the Village of :  
Nelsonville; HOMELAND TOWERS, LLC; :  
NEW YORK SMSA LIMITED :  
PARTNERSHIP d/b/a VERIZON WIRELESS; :  
and NEW CINGULAR WIRELESS PCD LLC :  
d/b/a AT&T MOBILITY, :

Defendants. :

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On January 15, 2021, defendants Homeland Towers, LLC, New York Limited Partnership d/b/a Verizon Wireless, and New Cingular Wireless PC, LLC d/b/a AT&T Mobility (collectively, the “Wireless Defendants”) moved to dismiss the complaint. (Doc. #21).

Accordingly, it is hereby ORDERED that, by no later than January 25, 2020, plaintiffs must notify the Court by letter whether they (i) intend to file an amended complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If plaintiffs elect not to file an amended complaint, the motion will proceed in the regular course, and the Court is unlikely to grant plaintiffs a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in the Wireless Defendants’ motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving “unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility”); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise

ordered by the Court.

If plaintiffs elect to file an amended complaint, they must file the amended complaint by no later than 14 days after notifying the Court of their intent to do so. Within 21 days of such amendment, defendants may either: (i) file an answer to the amended complaint; or (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that they are relying on the initially filed motion to dismiss.

Dated: January 19, 2021  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge